

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

MONDHER BEJAoui,

Defendant.

10 Cr. 553 (SHS)

GOVERNMENT'S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

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GOVERNMENT'S PROPOSED EXAMINATION
OF PROSPECTIVE JURORS

The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors.

The Court is requested to pursue more detailed questioning if a particular juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendant, or otherwise affect the juror's ability to serve as a fair and impartial juror in this case.

The Charges

This is a criminal case. The defendant on trial, MONDHER BEJAOUUI, has been charged with the commission of federal crimes in an Indictment.

The Indictment is not evidence. It simply contains the charges that the Government is required to prove to the satisfaction of the trial jury beyond a reasonable doubt. I will summarize the charges in this case in order to determine whether there is anything about the nature of this case that may make it difficult or inappropriate for any of you to serve on the jury.

The defendant, MONDHER BEJAOUUI, has been charged in an Indictment in six counts. Counts One, Two, Three, Four, Five, and Six all charge BEJAOUUI with mail fraud in connection with obtaining insurance for livery cabs and other vehicles through the following corporate entities: Hamton Luxury Cars (Count One); Vestal Limousine (Count Two); Hampton Luxury Cars (Count Three); Pedro Limousine (Count Four); Bejaoui Express (Count Five); and Heather Limousine (Count Six).

1. Does any juror have any personal knowledge of the charges in the Indictment as I have described them

Ability to Sit as a Juror

2. Does any juror have a problem with his or her hearing or vision, or any other medical problem, which would prevent him or her from giving full attention to all of the evidence at this trial? Is any juror taking any medication which would prevent him or her from giving full attention to all the evidence at this trial?

3. Does any juror have any difficulty in reading or understanding English in any degree?

Nature of the Charges

4. As you can tell, during the trial, you will hear evidence concerning insurance fraud. Does the fact that the charges involve fraud, and in particular insurance fraud make it difficult for any of you to render a fair verdict? Do any of you feel that you could not decide fairly and impartially a case involving such charges?

5. Has any juror been involved in an offense involving fraud? Has any juror ever been a victim of fraud? Has any juror's relative, close friend or associate been involved in an offense involving fraud? Has any juror, or any member of the juror's family, or any juror's close friend, had

any experiences of any kind, directly or indirectly, with fraud, and in particular insurance fraud?

6. Do any of you feel, for any reason, that you could not view fairly and impartially a case involving fraud, and in particular insurance fraud?

7. Has any juror worked in any job involving direct contact with the New York Automobile Insurance Plan (the "NAIP"), the New York State Insurance Department ("NYSID"), the American Transit Insurance Company ("American Transit"), the Robert Plan Insurance Company (the "Robert Plan"), Hudson Insurance Company ("Hudson Insurance"), or the New York City Taxi and Limousine Commission ("TLC")? If so, in what capacity?

8. Does any juror have a relative, close friend or associate who works in direct contact with the NYAIP, NYSID, American Transit, the Robert Plan, Hudson Insurance, or the TLC?

9. Has any juror had any negative experiences with the NYAIP, NYSID, American Transit, the Robert Plan, Hudson Insurance, or the TLC which would affect his or her ability to be a fair and impartial juror in this case?

Views on Certain Witnesses and Types of Evidence

10. The witnesses in this case may include law enforcement officers from the Federal Bureau of Investigation, ("FBI"), the New York State Insurance Department ("NYSID"), the New York City Police Department ("NYPD"), and possibly other law enforcement agencies. Would any of you be more likely to believe a witness merely because he or she is a member of the FBI, NYSID, NYPD or other law enforcement or government agency? Would any of you be less likely to believe a witness merely because he or she is a member of a law enforcement or other government agency?

Knowledge of the Trial Participants

11. The defendant in this case is MONHDER BEJAOUUI. *[Please ask the defendant to rise.]* Does any juror know, or has any juror had, any dealings, directly or indirectly, with the defendant, MONHDER BEJAOUUI, or with any relative, friend or associate of the defendant?

12. To your knowledge, do any of your relatives, friends, associates, or employers know the defendant?

13. The defendant, MONDHER BEJAOUUI, is represented by Joshua Dratel and Lindsay Lewis. *[Please ask Mr. Dratel and*

Ms. Lewis to stand.] Do any of you know Mr. Dratel or Ms. Lewis? Has any juror had any dealings with them?

14. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, Preet Bharara. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Alexander Wilson and Kan M. Nawaday. They will be assisted by [*names to be provided*], and Ummi Ansari, a paralegal specialist in the U.S. Attorney's Office. [*Please ask them to stand.*] Do any of you know Mr. Bharara, Mr. Wilson, Mr. Nawaday, Ms. Ansari, and [*names to be provided*]? To your knowledge, have you, your family members, or your close friends had any dealings with them?

15. I will now read a list of names of individuals who may be mentioned during the trial, or who may be witnesses in this case:

[NAMES TO BE SUPPLIED PRIOR TO JURY SELECTION]

Do any of you know any of those people? Have you had any dealings, directly or indirectly, with any of them? To your

knowledge, have any of your relatives, friends, or associates had any dealings with them?

16. I will now read a list of locations that may be mentioned or shown during the trial:

[LOCATIONS TO BE SUPPLIED PRIOR TO JURY SELECTION]

Do any of you live or work at or near any of these locations or have close friends or family who do?

Relationship With Government

17. Does any juror, or his or her relatives or close friends, work in law, law enforcement, the justice system, or the courts? In what capacity? Has any juror had any contact with anyone in law, law enforcement, the justice system or the courts that might influence your ability to evaluate this case?

18. Does any juror know, or have any association -- professional, business, or social, direct or indirect -- with any member of the staff of the United States Attorney's Office for the Southern District of New York?

19. Does any juror know, or have any association -- professional, business, or social, direct or indirect -- with the FBI, NYSID, or NYPD?

20. Have you, or has any member of your family, either as an individual or in the course of his or her business, ever been a party to any legal action or dispute with the United States or any of the departments, agencies, or employees of the United States, including the Internal Revenue Service? Have you had any legal, financial, or other interest in the outcome of such a dispute? Have you, or has any member of your family, ever had such a dispute concerning money owed to you by the Government or owed by you to the Government?

21. Has any juror, either through any experience he or she has had or anything he or she has seen or read, developed any bias or prejudice or other feelings for or against the United States Department of Justice, the United States Attorney's Office for the Southern District of New York, the FBI, the NYSID or the NYPD?

Prior Jury Service

22. Have you ever served as a juror in a trial in any court? If so, in what court did you serve and was it a civil or criminal case? What type of case was it? Without telling us what the verdict was, did the jury reach a verdict?

23. Have you ever at any time served as a member of a grand jury, whether in federal, state, county or city court? If so, when and where?

Experience as a Witness, Defendant, or Crime Victim

24. Have any of you, or your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury, or by a Congressional or state legislative committee, licensing authority, or governmental agency? Have you or anyone close to you been questioned in any matter by a law enforcement agency?

25. Have you or has a relative or close friend ever been a witness or a complainant in any hearing or trial?

26. Are you or any member of your family now under subpoena, or to your knowledge, about to be subpoenaed in any case?

27. Have you, any member of your family, or close friend ever been charged with a crime? *[As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire into the circumstances of each crime.]*

28. Has any juror, or any of your relatives or close friends, ever been a victim of a crime? *[As to any*

prospective juror who answers affirmatively, the Court is respectfully requested to inquire into the circumstances of each crime.]

29. Has any juror, or any of your relatives or close friends, ever been the subject of any investigation or accusation by any federal or state grand jury, or by a Congressional committee?

Function of the Court and Jury

30. The function of the jury is to decide questions of fact. You are the sole judges of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact finders. However, when it comes to the law, you must take your instructions from the Court and you are bound by those instructions. You may not substitute your notions of what the law is or what you think it should be. At the conclusion of the case, your job will be to determine whether or not the defendant is guilty as charged in the Information. Does any juror have any difficulty with that principle, or any problem in accepting and following the instructions of the law that I will give you in this case?

31. Will each juror accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into the deliberation of the jurors as to whether the defendant on trial here is guilty?

32. Will each of you accept the proposition that sympathy or empathy must not enter into the deliberations of the jurors as to whether the defendant is guilty or not guilty, and that only the evidence presented here in Court may be used by you to determine whether the defendant is guilty or not guilty of the crime charged?

33. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any juror who feels that even if the evidence established a defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

34. Does any juror have any religious, philosophical or other belief which would make him or her unable to sit in judgment of another or unable to render a guilty verdict for reasons unrelated to the law and the evidence?

Other Bias

35. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly, and impartially in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained?

Trial Schedule

36. After the jury is selected, we will begin opening statements and then the presentation of evidence. The trial in this case should last approximately two weeks. The Court expects that the court day will last from about [_____]. Is there any juror for whom the proposed trial schedule presents an insurmountable problem, one that would make it truly impossible for the juror to serve?

Juror's Background

37. The Government respectfully requests that the Court ask each juror to state the following information:

- (a) the juror's age;
- (b) where the juror was born;
- (c) the educational background of the juror, including the highest degree obtained;
- (d) whether the juror has served in the military;
- (e) the juror's occupation;
- (f) the nature of the juror's work;
- (g) the length of employment with his or her most recent employer;
- (h) the same employment information with respect to the juror's significant other and any working children;
- (i) the juror's current town of residence;
- (j) whether the juror owns or rents his or her home;
- (k) the length of time at that residence;
- (l) the newspapers or magazines that the juror typically reads and how often;
- (m) the television shows that the juror typically watches; and
- (n) the juror's hobbies or leisure-time activities and organizations.

Requested Instruction Following Empanelment of Jury

38. From this point on until you retire to deliberate on your verdict, it is your duty not to discuss this case and not to remain in the presence of other persons who may be discussing this case. This rule about not discussing the case with others includes discussions even with members of your own family and your friends.


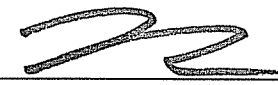
39. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me through my deputy clerk. In this regard, let me explain to you that the attorneys and the defendant in a case are not supposed to talk to jurors, even to offer a friendly greeting. So if you happen to see any of them outside this courtroom they will, and should, ignore you. Please do not take offense. They will only be acting properly by doing so.

Dated: New York, New York
November 19, 2012

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By:

Alexander Wilson / Kan M. Nawaday
Assistant United States Attorneys
Tel.: (212) 637-2453/2311

Certificate of Service

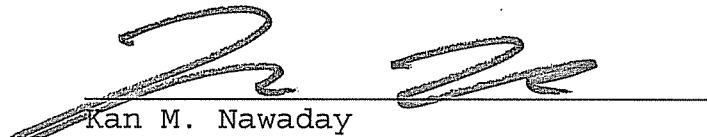
Filed Electronically

The undersigned attorney, duly admitted to practice before this Court, hereby certifies that on the below date, he served or caused to be served the following document in the manner indicated:

GOVERNMENT'S PROPOSED EXAMINATION OF PROSPETIVE JURORS

Service via Clerk's Notice of Electronic Filing upon defense counsel in this case, Joshua Dratel, Esq.

Dated: New York, New York
November 19, 2012



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Assistant United States Attorney
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